

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MARICIO URIBE

Plaintiff,

vs.

**EFFORT ENTERPRISES OF TEXAS,
INC. D/B/A ATLANTIC
RELOCATION SYSTEM**

Defendant.

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**CIVIL ACTION NO. _____
Jury Demanded**

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES, Maricio Uribe, individually, and files this Plaintiff's Original Complaint.

A. SUMMARY

1. This is a proceeding against Defendant for violating the overtime pay provisions of the Fair Labor Standards Act of 1938, 29 U.S.C. §201 et. seq. (or "FLSA"). Defendant employed the Plaintiff as a truck driver. For the past three years, Defendants have not paid him overtime pay as required by the Fair Labor Standards Act ("FLSA").

The Plaintiff regularly worked in excess of 40 hours per work week. However, Defendant failed to pay Plaintiff's corresponding overtime compensation, and paid at a regular hourly rate.

The failure to pay the Plaintiff at one-and-one half times his hourly rate for hours over forty in a workweek is a plain, simple violation of the FLSA.

For these reasons, Plaintiff seeks unpaid wages, liquidated damages, attorney fees, and all other relief permitted.

B. PARTIES

2. Plaintiff, Maricio Uribe is an individual and a resident of the state of Texas. Plaintiff brings this action on behalf of himself pursuant to 29 U.S.C. §216(b). Plaintiff worked as a truck driver at Effort Enterprises of Texas, Inc. of Texas, Inc. d/b/a/ Atlantic Relocation System, 5210 Tacoma Drive Houston, Texas 77041. Plaintiff is a former employee of Defendant, who was paid by the hour and within the last three years worked more than forty hours in a work week, but was not paid overtime wages.

3. Defendant, Effort Enterprises of Texas, Inc. d/b/a Atlantic Relocation Systems is a Texas incorporated company, conducting business in Texas. Defendant constitutes an “employer” within the meaning of 29 U.S.C. §203(d). Defendant may be served with summons by serving its registered agent: Paracorp Incorporated, 3610-2 N Josey Lane, Carrollton, Texas 75007.

C. JURISDICTION

4. The court has federal question jurisdiction, 28 U.S.C. §1331, over Plaintiff’s claims of unpaid overtime, because these actions arise under federal law, via the Fair Labor Standards Act of 1938, 29 U.S.C. §201 *et seq.* Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in this district, and Defendant is subject to personal jurisdiction in Texas.

D. FACTS

5. Plaintiff is a former employee of Defendant.

6. Plaintiff is nonexempt under the FLSA because he is paid on an hourly basis and should be compensated for appropriate overtime, at a rate of one and one half the regular hourly rate.

7. Plaintiff was hired by Defendant, to drive “Bo-Tail” trucks, which are approximately 25-26 feet long.

8. At all times, relevant to this lawsuit, the Plaintiff was an employee, who was employed to drive “Bo-Tail” 25-26ft long box trucks, in order to transport client’s property to residential and commercial property.

9. Defendant agreed to pay Plaintiff, an hourly rate of \$14.00 for each hour worked.

10. Defendant continued to pay \$14.00 for each hour worked over 40 hours.

11. At Defendant’s direction, and for the benefit of Defendant, Plaintiff regularly worked in excess of 40 hours per work week.

12. During the past three years, Defendant repeatedly docketed 2-3 hours of pay each week from Plaintiff.

13. Defendant paid straight time for all overtime hours worked rather than time and a half.

14. Defendant regularly warned and threatened adverse employment action against its truck drivers, if any overtime was reported.

15. Plaintiff, Maricio Uribe was subsequently terminated on or about July 22, 2016, for the incident.

E. COUNT 1: VIOLATION OF FLSA: UNPAID OVERTIME

16. As illustrated above, Defendant maintained a practice of requiring Plaintiff, a nonexempt employee, to work more than 40 hours per workweek. For failing to pay Plaintiff for corresponding earned overtime, Defendant violated the provision of the federal Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* As a result of the unlawful practices, Plaintiff suffered a loss of wages.

17. All conditions precedent to the filing of this suit has been satisfied.

F. JURY TRIAL DEMANDED

18. Plaintiff asserts his rights under the Seventh Amendment to the U.S. Constitution and demand, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

H. PRAYER FOR RELIEF

19. For the above reasons, Plaintiff seeks judgment against Defendant for the following:

- a. Judgment against Defendants for an amount equal to Plaintiff's unpaid back wages at the applicable overtime rate for each hour worked over forty, 29 U.S.C. §216(b);
 - b. An equal amount to the wage damages as Liquidated damages, 29 U.S.C. §216(b) and/or prejudgment interest;
 - c. Application of the three-year statute of limitations for willful FLSA violations, 29 U.S.C. §255(a);
 - d. Attorney's fees and costs of suit, 29 U.S.C. §216(b),
 - e. Leave to add additional Plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court;
- Leave to amend to add claims under applicable state laws; and
- e. All other relief the court deems necessary and appropriate.

Respectfully submitted,

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